

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARCO VERCH,

Plaintiff,

MEMORANDUM AND ORDER
19-CV-5923 (RPK) (RML)

-against-

SEA BREEZE SYRUPS, INC.,

Defendant.

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RACHEL P. KOVNER, United States District Judge:

Plaintiff Marco Verch brings this copyright infringement action against defendant Sea Breeze Syrups, Inc. *See* Compl. ¶ 1 (Dkt. #1). Plaintiff is a professional photographer who licenses his photographs to online and print media for a fee. *See id.* ¶ 5. The complaint alleges that defendant reproduced and displayed one of plaintiff's licensed photographs on defendant's website without authorization, in violation of the Copyright Act, 17 U.S.C. § 501. *See id.* ¶¶ 7-16. After defendant failed to respond to the complaint, plaintiff moved for default judgment. *See* Mot. for Default J. (Dkt. #9).

On August 20, 2020, Magistrate Judge Levy issued a report and recommendation ("R. & R.") recommending that plaintiff's motion for default judgment be granted. *See generally* R. & R. (Dkt. #15). Judge Levy further recommends that plaintiff be awarded \$1,000 in statutory damages under the Copyright Act, 17 U.S.C. § 504, as well as \$1,575 in attorney's fees and \$440 in costs, for a total of \$3,015. *See id.* at 13. No party objected to the R. & R. within 14 days of service, the time required by 28 U.S.C. § 636(b)(1).

A district court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). As a general matter, when no party has objected to a magistrate judge's recommendation, the Court reviews the

recommendation for “clear error.” *Alvarez Sosa v. Barr*, 369 F. Supp. 3d 492, 497 (E.D.N.Y. 2019) (citation omitted); *see Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citing Fed. R. Civ. P. 72 advisory committee’s note to 1983 addition). Clear error will only be found when, upon review of the entire record, the Court is “left with the definite and firm conviction that a mistake has been committed.” *DiPilato v. 7-Eleven, Inc.*, 662 F. Supp. 2d 333, 339-40 (S.D.N.Y. 2009) (quoting *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006)).

I have reviewed Judge Levy’s R. & R. and, having found no clear error, adopt it in full. Accordingly, plaintiff’s motion for default judgment is granted and plaintiff is awarded \$3,015.

SO ORDERED.

/s/ Rachel Kovner
RACHEL P. KOVNER
United States District Judge

Dated: December 17, 2020
Brooklyn, New York